

The will to die — on 'living wills'

The debate on allowing euthanasia as a means to protect the dignity of patients in a vegetative state has crystallised into a key question before a Constitution Bench of the Supreme Court. Should the law allow 'living wills'? These are advance directives that people can lay down while being sound of mind, on whether they should continue to get life-sustaining treatment after they reach a stage of total incapacitation, that is, a vegetative state. The question is fraught with legal, moral and philosophical implications. The court will have to resolve the question whether the right to life under Article 21 of the Constitution, which according to an earlier verdict does not include the right to die, is being voluntarily waived by a person giving such an advance directive. A living will, at the same time, may relieve the close family members and caregivers of a terminally ill patient of the moral burden of making a life-ending decision. Does a living will imply that the state has come to accept a patient's autonomy and self-determination to the point of legalising a wish to die? For doctors, does it mean an abandonment of their obligation to preserve life? Under U.S. jurisdiction patient autonomy is paramount, and many States have laws allowing advance directives, even the nomination of a 'health care proxy' who can decide on behalf of the patient. Should India follow suit?

While reserving its verdict, the court has indicated that it may lay down comprehensive guidelines on operationalising the idea of living wills. The government has opposed the concept of an advance directive, arguing that it would be against public policy and the right to life. The government is rightly concerned that the idea may be misused and result in the neglect of the elderly. If the U.S. had a Terri Schiavo, India had its own Aruna Shanbaug, both of whom were at the centre of right-to-die arguments. In the latter's case, the Supreme Court, in a landmark verdict in 2011, ruled out any support for active euthanasia, but laid down a broad legal framework for passive euthanasia, or the withdrawal of life support subject to safeguards and a fair procedure. In the present case, the court may have to draw up stringent safeguards for certifying living wills, preferably by a judicial officer, and lay down the exact stage at which the advance directive becomes applicable. The court's observation that it would kick in only after a medical board rules that a person's condition is incurable ought to be sufficient reassurance for those concerned about its possible misuse. The present law provides for advance directives regarding treatment of mental illness, so the concept is not new to Indian law. Living wills, if sanctified in law, should come with robust safeguards.

Rajasthan's ordinance shields the corrupt, threatens the media and whistle-blowers

END

Downloaded from crackIAS.com

© **Zuccess App** by crackIAS.com